

Court of Appeals, State of Michigan

ORDER

People of MI v Ijoma Ekwedi Raymond

Docket No. 287692

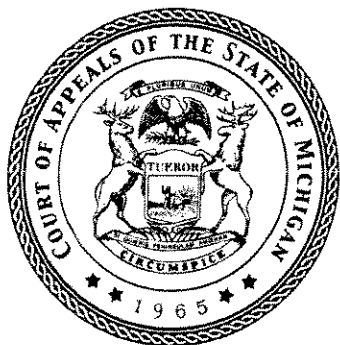
LC No. 2001-179885-FC

Patrick M. Meter
Presiding Judge

E. Thomas Fitzgerald

Kirsten Frank Kelly
Judges

The Court, acting under MCR 7.203(F)(2), orders that the motion for reconsideration is DENIED. The July 22, 2008 circuit court order constitutes an order denying a successive motion for relief from judgment, which may not be appealed. MCR 6.502(G)(1). The exceptions provided for a successive motion based on a retroactive change in law or a claim of newly discovered evidence, MCR 6.502(G)(2), are inapplicable. Further, defendant's labeling of the successive motion for relief from judgment as a motion to amend the earlier motion for relief from judgment is not controlling. An amendment to a motion for relief from judgment for purposes of MCR 6.502(F) must reasonably be considered as an alteration to such a motion before it is decided. To construe MCR 6.502(F) as sought by defendant would allow any defendant to render the general bar of MCR 6.502(G)(1) against successive motions for relief from judgment nugatory simply by labeling such a successive motion as a motion to "amend" a prior motion. See *Johnson v White*, 261 Mich App 332, 348; 682 NW2d 505 (2004) (a construction rendering a court rule nugatory should be avoided).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAR 09 2009

Date

Sandra Schultz Mengel
Chief Clerk